



State of Election Administration Legislation 2023



Executive summary

This report, published on the first anniversary of the launch of Ballotpedia's Election Administration Legislation Tracker, presents our observations and analysis regarding the election-related state legislation we've tracked in the first part of 2023.

The report covers selected trends we've analyzed this year and highlights legislative activity across various policy subsets .

State legislators introduce thousands of bills each year impacting the way Americans vote and how our elections are governed. Our intent with this report is to provide a neutral and authoritative summary of that activity.

The report also covers current state policy and notable 2023 legislative activity across several policy subsets , including ranked-choice voting, private funding bans, election audits, photo ID requirements for voting, and noncitizen voting.

Unless otherwise noted, the data in this report covers Jan. 1 through May 31, 2023.

This report was compiled by Joe Greaney and Janie Valentine. Ballotpedia Editor in Chief Geoff Pally reviewed the report and provided feedback, as did Managing Editor Cory Eucalitto.

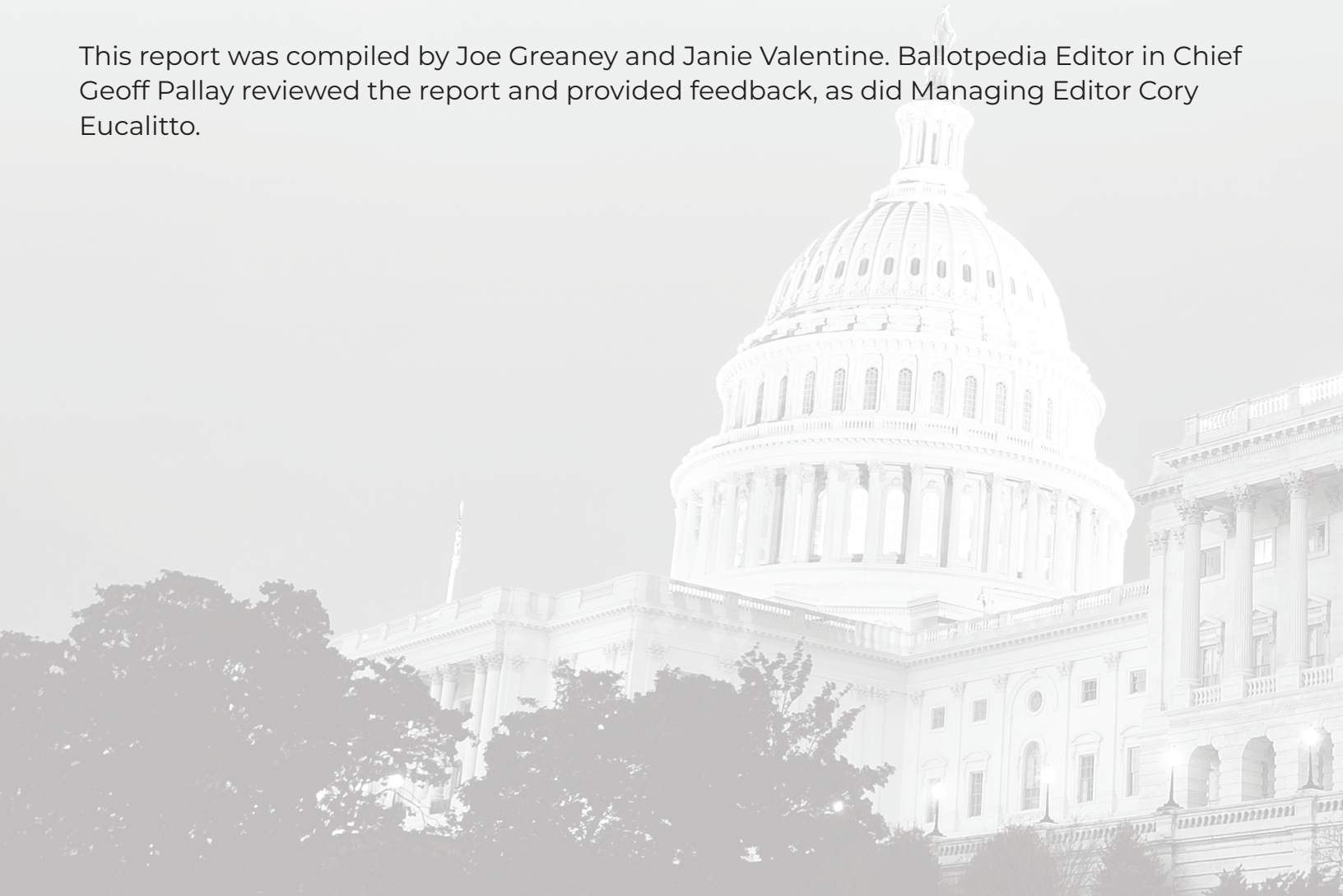


Table of contents

3

Legislation tracking by the numbers

4

About Ballotpedia's Election Administration Legislation Tracker

5

Tracking trends

10

Specific policy subsets



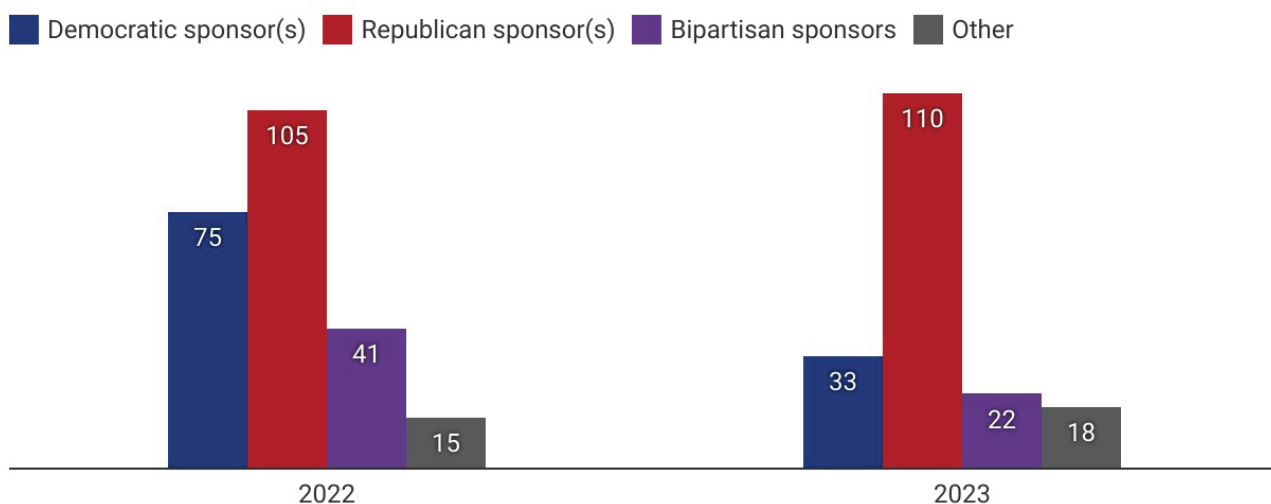
By the numbers

Figures for 2023 cover January through May. Figures from 2022 cover the whole year.

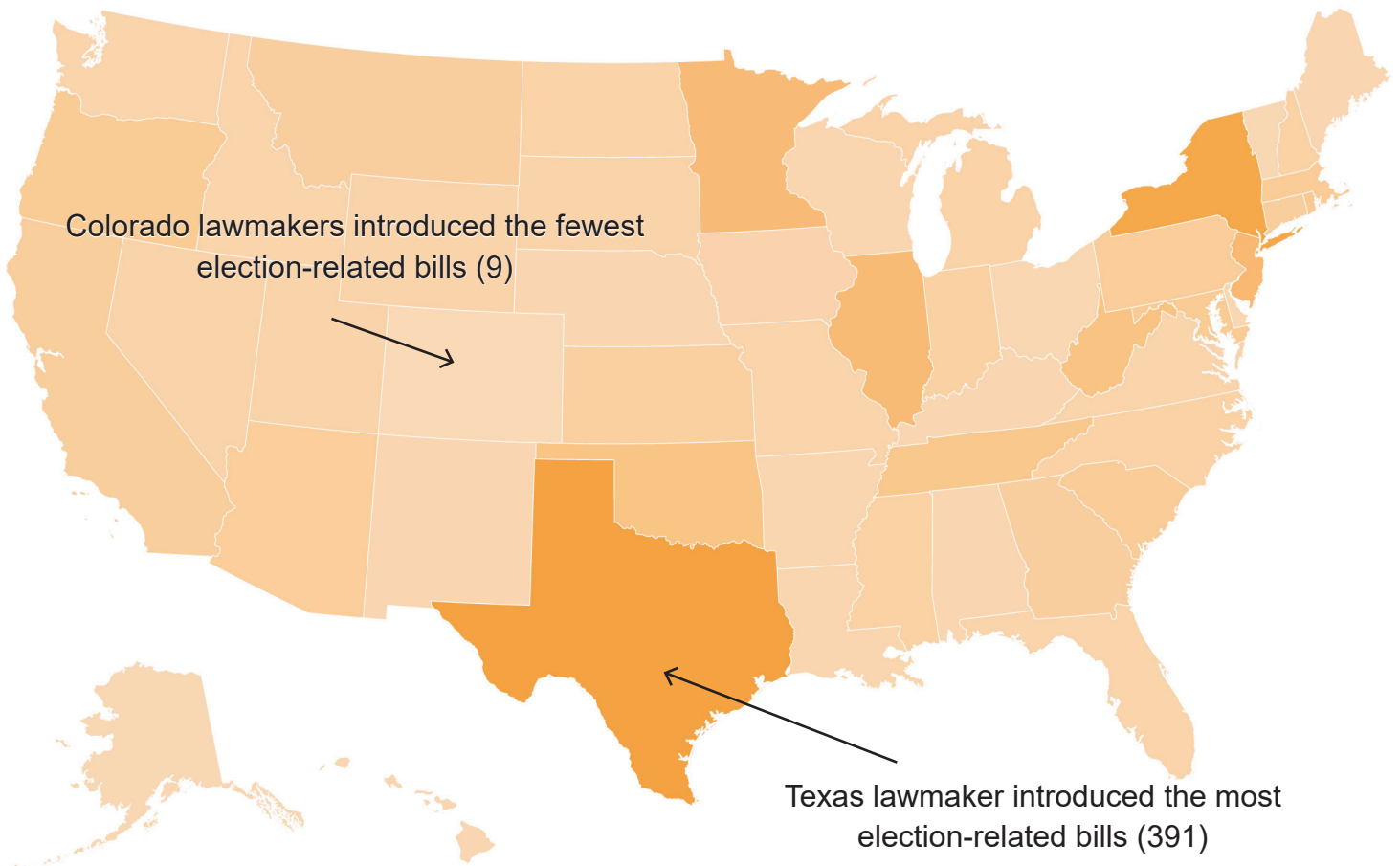
| | | | |
|-----|---|--------------|-------------------------|
| 1. | Bills tracked: | 2,682 | Last year: 2,520 |
| 2. | Bills enacted: | 183 | Last year: 236 |
| 3. | Bills enacted by Democratic trifectas: | 30 | Last year: 78 |
| 4. | Bills enacted by Republican trifectas: | 136 | Last year: 99 |
| 5. | Bills enacted by divided governments: | 17 | Last year: 59 |
| 6. | Bills vetoed: | 17 | Last year: 17 |
| 7. | Bills with Democratic sponsorship: | 1,135 | Last year: 1,102 |
| 8. | Bills with Republican sponsorship: | 1,232 | Last year: 1,097 |
| 9. | Bills with bipartisan sponsorship: | 149 | Last year: 232 |
| 10. | Bills with other sponsorship (including committee): | 166 | Last year: 89 |

Enacted bills by sponsor party

This chart shows the number of bills enacted as of May 31, 2023, compared to the number of bills enacted in 2022 legislative sessions, broken down by sponsor party affiliation.



Number of election-related bills introduced by state



About Ballotpedia's Election Administration Legislation Tracker

Ballotpedia launched our Election Administration Legislation Tracker in June 2022. The tracker is a best-in-class resource to help voters, journalists, researchers, and activists quickly and easily track election-related legislation through a portal on our website.

This user-friendly tracker covers thousands of election-related bills in state legislatures and organizes them by topic with neutral, expert analysis from Ballotpedia's election administration researchers.

In addition to providing daily updates on the bills we track, we summarize each bill in neutral language for a general audience and add category tags that allow for trend analysis.

Because it's from Ballotpedia, our tracker is guaranteed to be neutral, unbiased, and nonpartisan.

Methodology

Ballotpedia's comprehensive Election Administration Legislation Tracker is the basis for the data and analysis in this report.

Using the tracker, we capture election-related legislation across all 50 state legislatures and provide real-time updates as bills progress. To do this, we use:

- Automated keyword searches
- Manual bill review
- Real-time refinements based on keyword results and news monitoring

Once relevant bills are identified and added to the tracker, our team manually reviews each bill a second time. We then categorize each bill by policy topic area and summarize each bill in neutral, easy-to-understand language.

Our bill tagging system—which includes almost 100 tags in more than 20 policy areas—allows us to track policy changes and analyze trends in election administration legislation.

Tracking trends

Thanks to our bill tagging system, we are able to analyze trends in election administration legislation in more than 20 broad election policy areas. Here are a few highlights of trends we've tracked this year:

1. More RCV bans considered in 2023 legislative sessions than previous years

While state legislatures have considered a similar number of bills related to ranked-choice voting (RCV) in 2023 as they did in 2022, the number of measures prohibiting RCV has nearly doubled, from nine bans or repeals introduced in 2022 to 15 such bills introduced as of May 31, 2023.

By May 31, Idaho, Montana, and South Dakota had enacted RCV bans—joining Florida and Tennessee, which became the first states to do so in 2022. All five states had Republican trifectas when these laws were adopted. Similar Republican-sponsored bills advanced in other states, as well: Arizona HB2552 (vetoed), Montana HB598, North Dakota HB1273 (vetoed), and Texas SB921 (passed one chamber).


Republican lawmakers in Alaska and Maine, where ranked-choice voting has been implemented for some federal and state-level elections through statewide ballot measures, have introduced legislation that would repeal RCV.

2. More bills introduced in 2023 than in 2022 that would make ballot access more difficult for political parties

Lawmakers have introduced more bills this year than last year that would make it more difficult for political parties to have their candidates placed on election ballots.

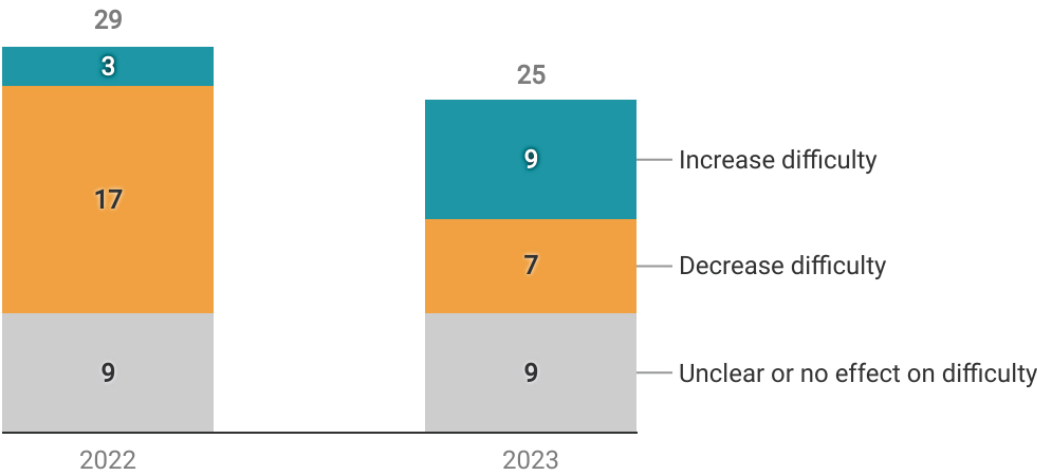
This year, we’ve tracked 25 bills related to ballot access for political parties that were introduced as of May 31. Of those, we determined that nine bills—introduced in Colorado, Minnesota, Montana, Nevada, and Texas—would make it more difficult for parties to qualify for ballot access, while seven—in Arkansas, Indiana, Maine, Montana, New York, and West Virginia—would ease ballot access requirements for political parties.

In 2022, we tracked 29 bills related to political party ballot access. Of the bills that were introduced in 2022, we determined that 17 would have eased ballot access requirements. Three bills, a set of companion bills in Iowa, would have increased requirements for non-party political organizations (political organizations not meeting the conditions to be a political party) to nominate a candidate at a nominating convention.



Gov. Tim Walz (D) signed Minnesota HF1830—an omnibus bill including a provision changing the major political party vote requirement from 5% to 8%—on May 24. According to Richard Winger of Ballot Access News, Minnesota’s 5% requirement was one of the most difficult in the country, with 2% being the median requirement. Virginia and New Jersey have a 10% requirement, while Alabama’s is 20%.

Bills affecting ballot access requirements for political parties, 2022-2023



3. Nearly 50% increase in the number of bills introduced on the consolidation of election dates, and more states eye school board election changes

As of May 31, 14 states were considering bills modifying school board election dates to coincide with other local or statewide elections, up from two in 2022, with Republicans sponsoring nearly every such bill in both years.

In total, state legislators had introduced 31 bills that would consolidate permissible election dates as of May 31. Eighteen such bills were introduced in 2022. Legislation related to consolidating election dates includes any bill that moves or allows jurisdictions to move an election or elections to coincide with existing state and/or federal election dates, such as moving an election from odd- to even-year cycles or from spring dates to November.

4. Total number of bills related to private funding of elections drops as majority of GOP states have already passed bills

As of May 31, fewer states were considering new bans on the private funding of elections than in 2022, as 22 of the 28 states where the GOP controls both chambers of the legislature had already enacted such bills over the past two years. However, several states were considering amendments to private funding provisions enacted since 2021.

Three of the six Republican-controlled legislatures that had not enacted private funding bans by 2023—Louisiana, Montana, and North Carolina—had considered such bills as of May 31. Montana's ban was enacted.

5. Enacted ballot collection bills make mostly small changes, several states considering new restrictions and penalties

As of May 31, 11 states had considered legislation related to ballot collection, or ballot harvesting, and three states had enacted bills. In 2022, 15 states considered such bills, and bills in seven states were approved.

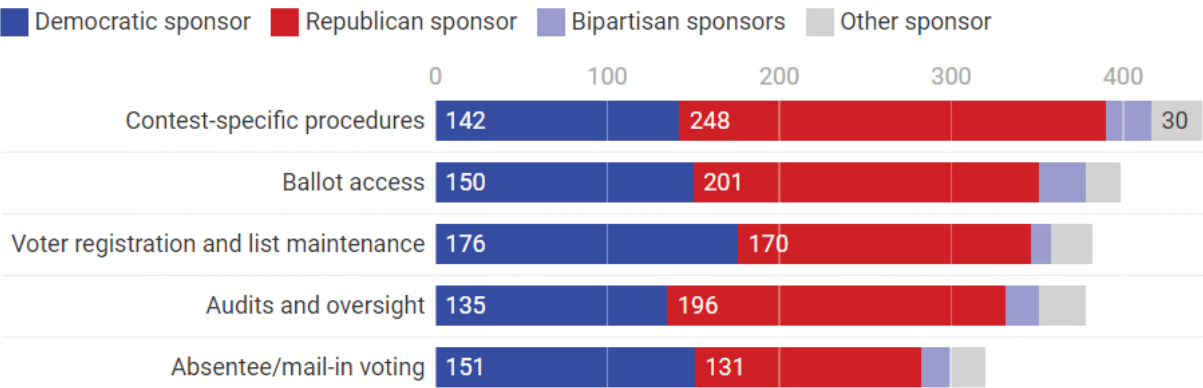
While most of the bills introduced this year would make minor changes to existing laws, some states are considering more substantial changes. Bipartisan bills in Rhode Island and Wyoming, two states that do not currently specify whether someone may return ballots on behalf of another voter, would add restrictions to ballot collection. Republican-sponsored bills in three states that currently allow voters to choose someone to return their ballot, Nebraska, Oregon, and Virginia, would narrow or limit the authorized individuals who may return another voter's ballot.

Of the 22 states that currently have a Republican trifecta, 11 states specify or otherwise limit who may return another voter's absentee ballot, while four others do not have any law related to ballot collection. Of the 17 Democratic trifecta states, only three specify or otherwise limit who may collect and return absentee ballots, while five states' statutes do not reference ballot collection.

6. Bills related to contest-specific procedures are most commonly introduced and most commonly enacted

Election-related bills by subject and sponsorship, 2023

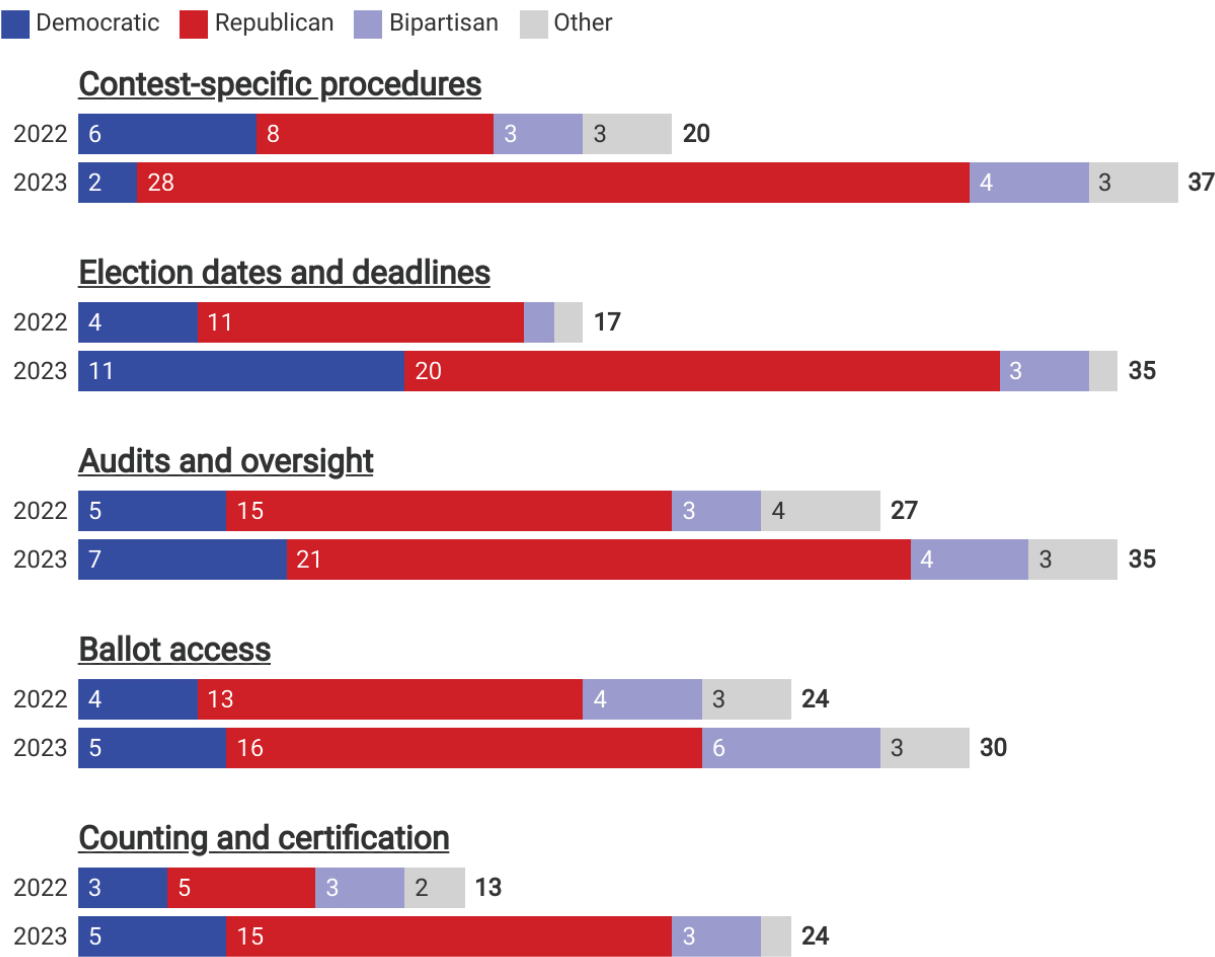
This chart shows the top-five most active bill subjects in 2023 broken down by partisan sponsorship.



Current as of June 1, 2023

Top-five enacted bill subjects, 2023 vs. 2022

This chart shows the number and sponsorship of the top-five most active subjects for enacted bills as of May 31, 2023, compared to the number and partisanship of enacted bills on the same subjects as of May 31, 2022.



As of May 31, the most common topic of introduced election-related legislation was contest-specific procedures, followed by ballot access, voter registration and list maintenance, audits and oversight, and absentee/mail-in voting.

Republican lawmakers led the way in total bills enacted in each of the top-five topics.

- **Contest-specific procedures:** Republican legislators sponsored 28 of the 37 enacted bills (75.7%), while Democratic legislators sponsored just two bills (5.4%). Four enacted bills (10.8%) had bipartisan sponsorship.
- **Election dates and deadlines:** Republican legislators sponsored 20 of the 35 enacted bills (57.1%), Democratic legislators sponsored 11 enacted bills (31.4%), and three enacted bills (8.6%) had bipartisan sponsorship.
- **Audits and oversight:** Republican legislators sponsored 21 of the 35 enacted bills (60.0%), Democratic legislators sponsored seven (20.0%), and four enacted bills (11.4%) had bipartisan sponsorship.
- **Ballot access:** Republican legislators sponsored 16 of the 30 (53.3%) enacted bills, while Democratic legislators sponsored five of the enacted bills (16.7%), and six enacted bills (20.0%) had bipartisan sponsorship.
- **Counting and certification:** Republican legislators sponsored 15 of the 24 enacted bills (62.5%), Democratic legislators sponsored five enacted bills (20.8%), and three enacted bills (12.5%) had bipartisan sponsorship.

7. Republicans enact majority of bills related to voter list maintenance, and multiple states consider bills related to ERIC

As of May 31, state lawmakers had introduced 110 bills related to voter list maintenance. Of these, 11 had been enacted, and two were vetoed, both in Arizona. Of the 11 enacted bills, 10 were enacted in Republican trifecta states, and one was enacted in a Democratic trifecta (New Mexico).

Included among voter list maintenance bills were efforts in Texas and Arizona to withdraw from participation in the Electronic Registration Information Center (ERIC). Lawmakers in both states sent bills to their governors that would effectively withdraw their respective states from ERIC. These efforts occur against the backdrop of a wider-reaching push by election administrators in a number of states to cease participation in ERIC.

On May 29, Texas lawmakers sent Senate Bill 1070 to Gov. Greg Abbot (R), positioning the state to become the eighth to withdraw from ERIC this year, and the ninth since 2022. On May 26, Arizona Gov. Katie Hobbs (D) vetoed Senate Bill 1135, which would have effectively withdrawn that state from ERIC. At its height, 33 states were participating members in ERIC. In the eight other states that have withdrawn from ERIC since 2022, chief election officials made the decision to withdraw without legislative involvement.

Separately, Oklahoma, which is not currently a member of ERIC, enacted a bill in May permitting the state to join a multistate voter list maintenance organization, such as ERIC, but includes provisions that would effectively preclude Oklahoma from joining ERIC. Finally, California legislators are still considering a bill that would require the state to apply for membership in ERIC if enacted.

Specific policy subsets

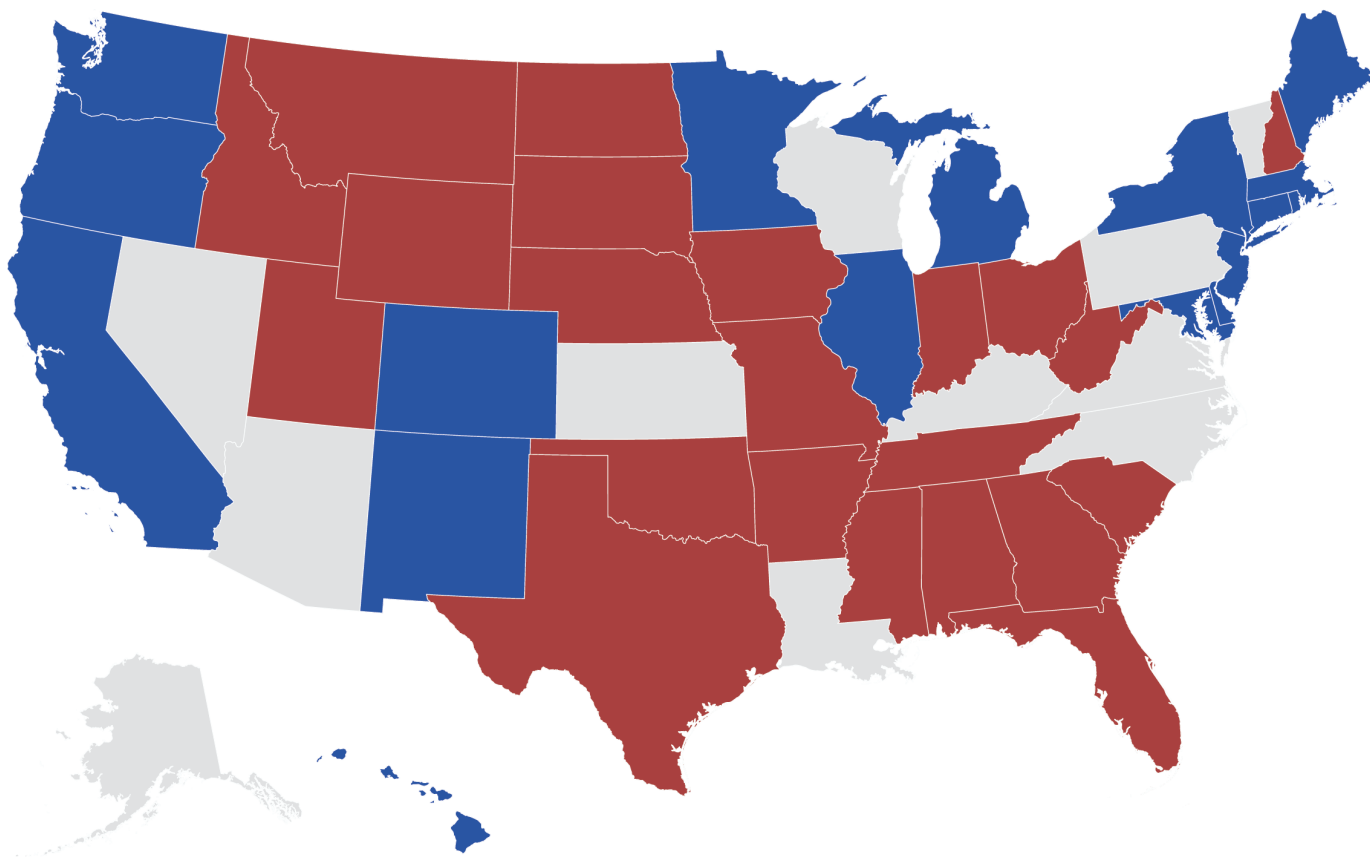
The final section of this report includes current state election policy and notable 2023 legislative activity across several policy subsets.

The political makeup of a state's government affects the state's election policy. **State government trifecta** is a term to describe single-party government, when one political party holds the governorship and majorities in both chambers of the state legislature. As of 2023, there are 22 Republican trifectas, 17 Democratic trifectas, and 11 divided governments where neither party holds trifecta control.

This map shows the trifecta status of each state as of 2023:

State of government trifectas, 2023

- Democratic trifecta
- Divided government
- Republican trifecta



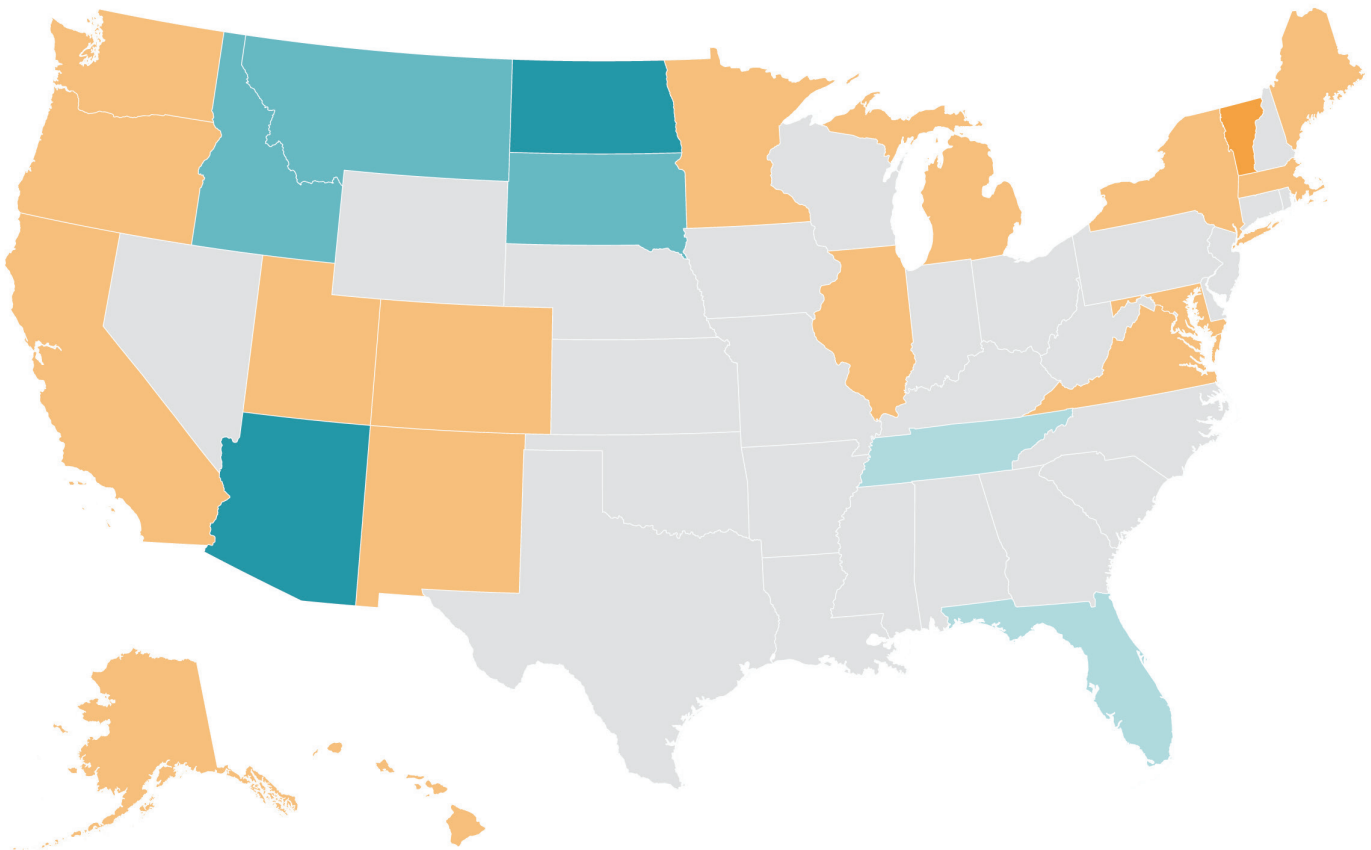
Ranked-choice voting

Ranked-choice voting (RCV) is an electoral system in which voters rank candidates in order of preference on their ballots. If a candidate wins a majority of first-preference votes, that candidate is declared the winner. If no candidate wins a majority of first-preference votes, the candidate with the fewest first-preference votes is eliminated. First-preference votes cast for the failed candidate are eliminated, lifting the next-preference choices indicated on those ballots. A new tally is conducted to determine whether any candidate has won a majority of the adjusted votes. The process is repeated until a candidate wins an outright majority.

Heading into 2023, two states prohibited RCV, while 17 states had adopted RCV voting either on the state or local level. In 2023, three more states passed laws prohibiting RCV, and two such bans were vetoed.

Status of ranked-choice voting laws as of May 2023

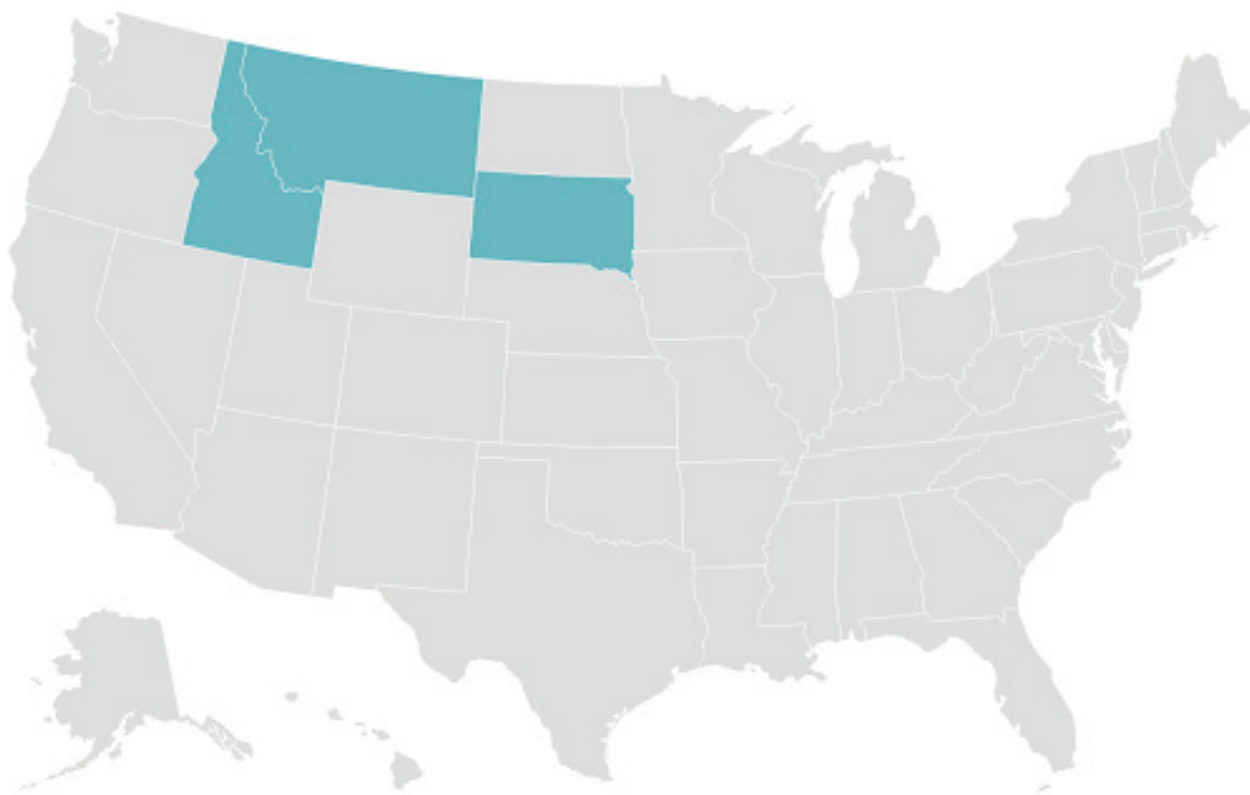
- No RCV adopted, no prohibition
- RCV adopted prior to 2023 (state or local)
- RCV prohibited before 2023
- Law enacted in 2023 prohibiting RCV
- Prospective RCV ban vetoed in 2023
- Law enacted in 2023 expanding RCV



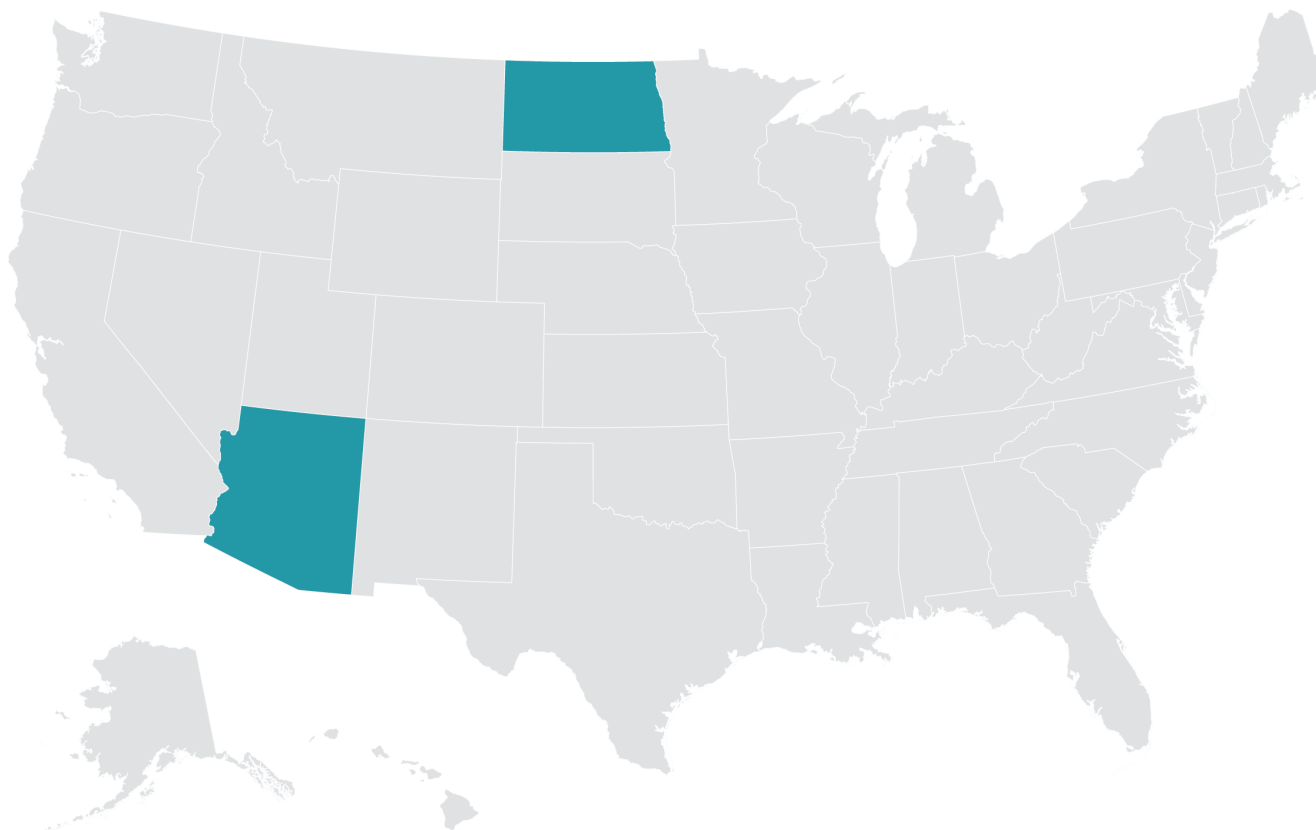
Democratic trifectas: CA, CO, CT, DE, HI, IL, ME, MD, MA, MI, MN, NJ, NM, NY, OR, RI, WA

Republican trifectas: AL, AR, FL, GA, ID, IN, IA, MS, MO, MT, NE, NH, ND, OH, OK, SC, SD, TN, TX, UT, WV, WY

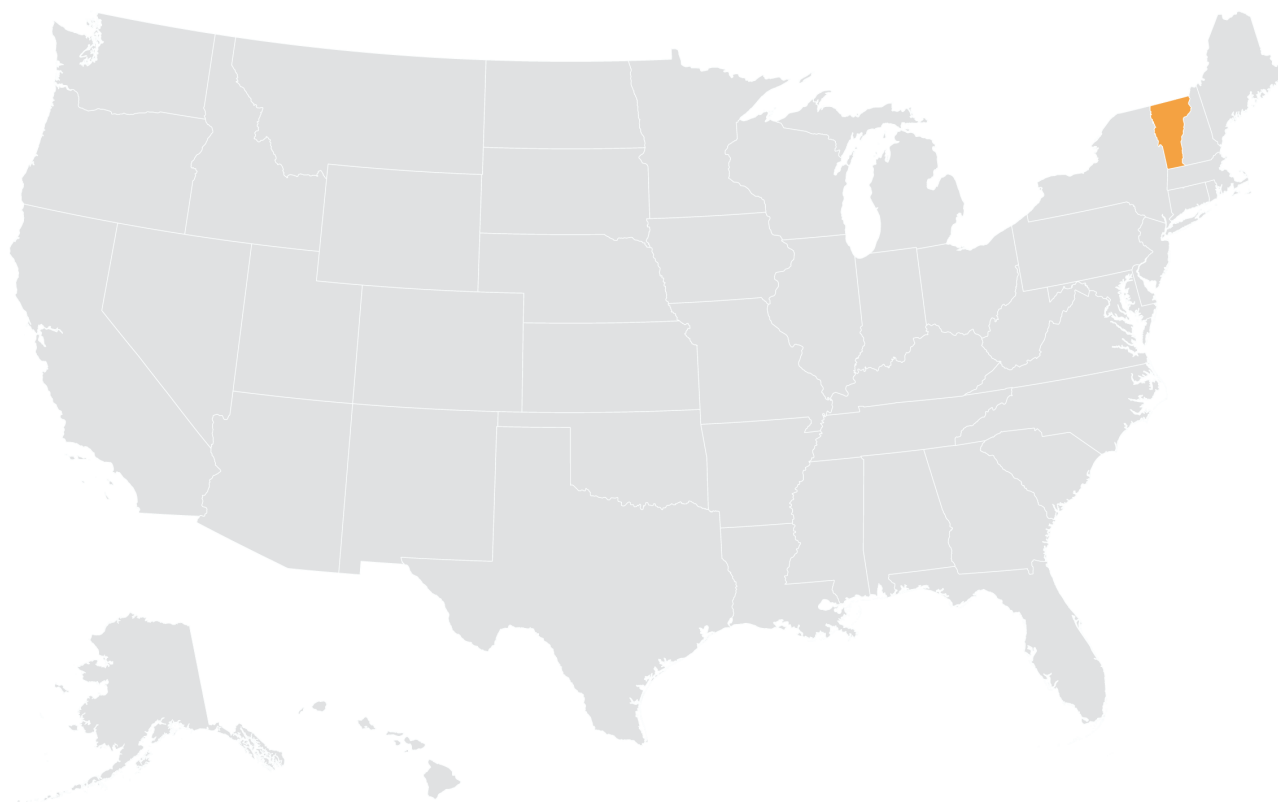
Law prohibiting RCV enacted in 2023



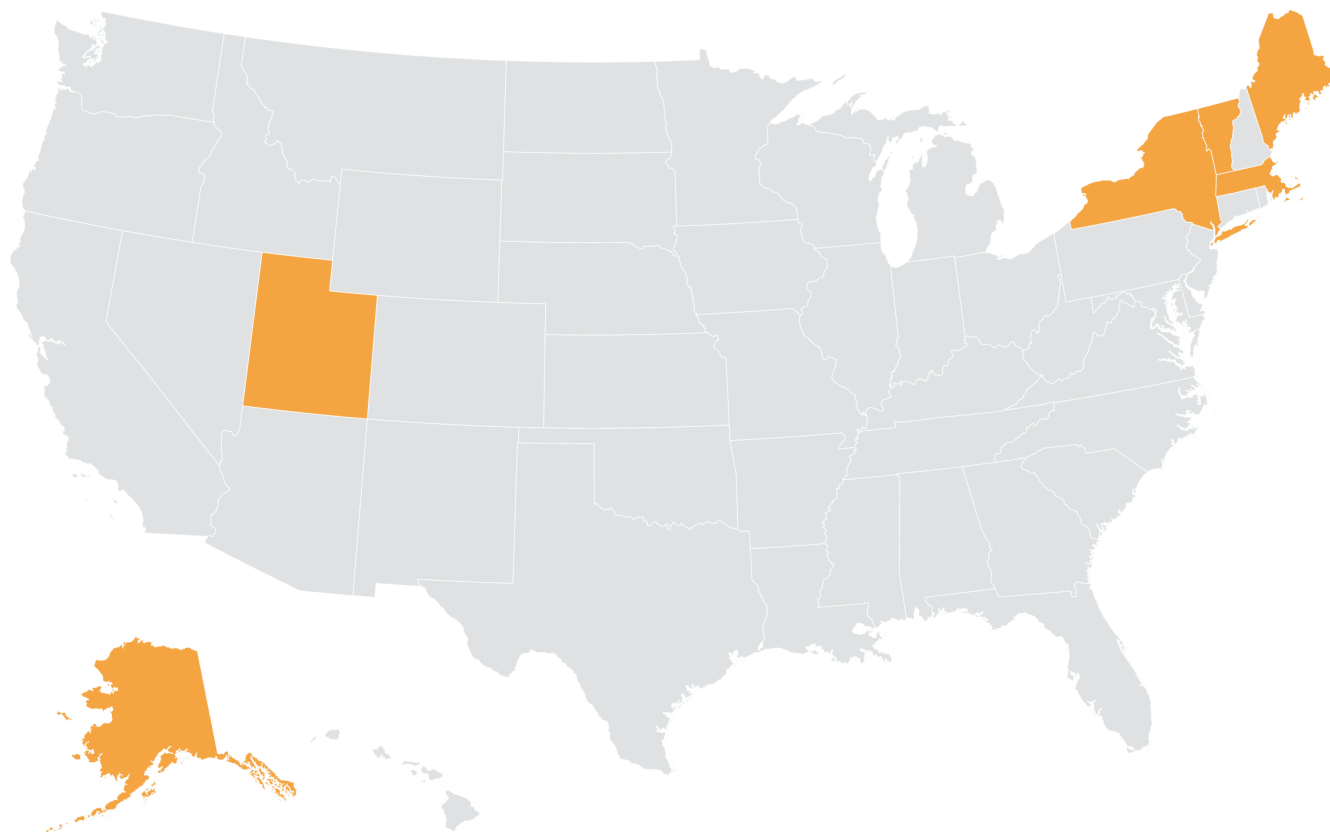
Prospective RCV ban vetoed in 2023



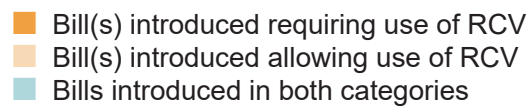
Law expanding RCV (local) enacted in 2023



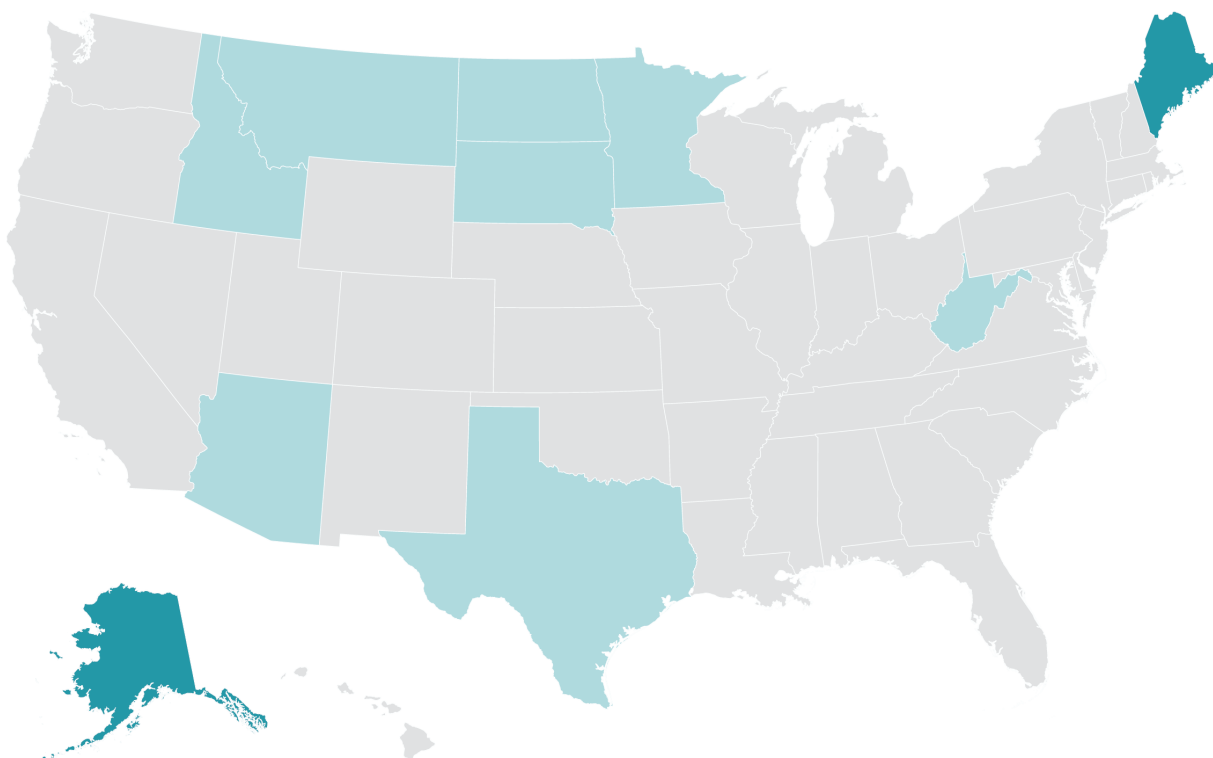
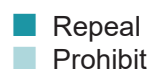
Bill amending existing RCV law introduced in 2023



Bill allowing or requiring new use of RCV introduced in 2023



Bill repealing or prohibiting use of RCV introduced in 2023



Private funding bans

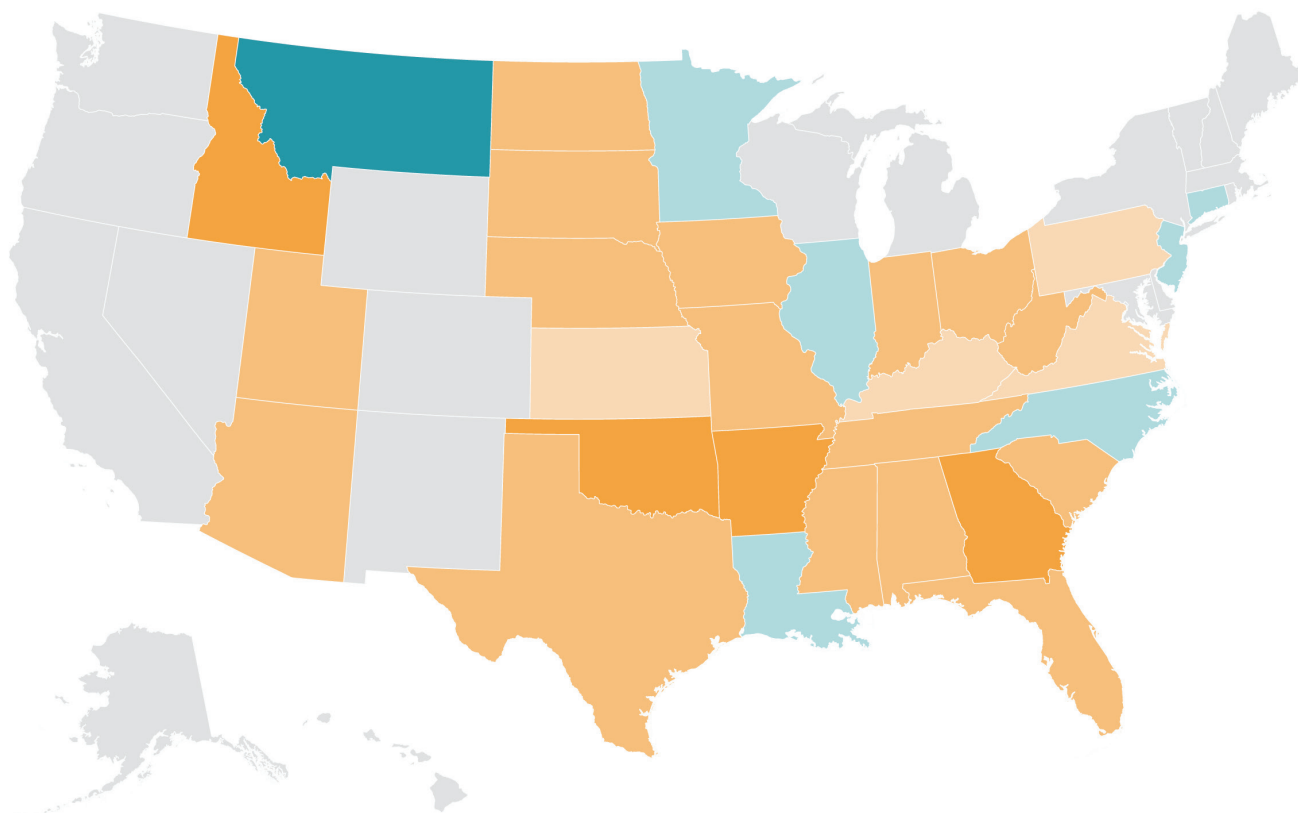
The private funding of elections refers to the practice of nonprofits, private organizations, or individuals providing funding to election administrators for election efforts.

Debate over using private resources for election costs largely began as a result of a series of donations nonprofits such as the Center for Tech and Civic Life made ahead of the 2020 general election.

From 2021 to 2022, 24 states banned using private funds for election expenses. As of May 31, Montana was the only state to have banned private funding in 2023.

Status of laws governing private election funding as of May 2023

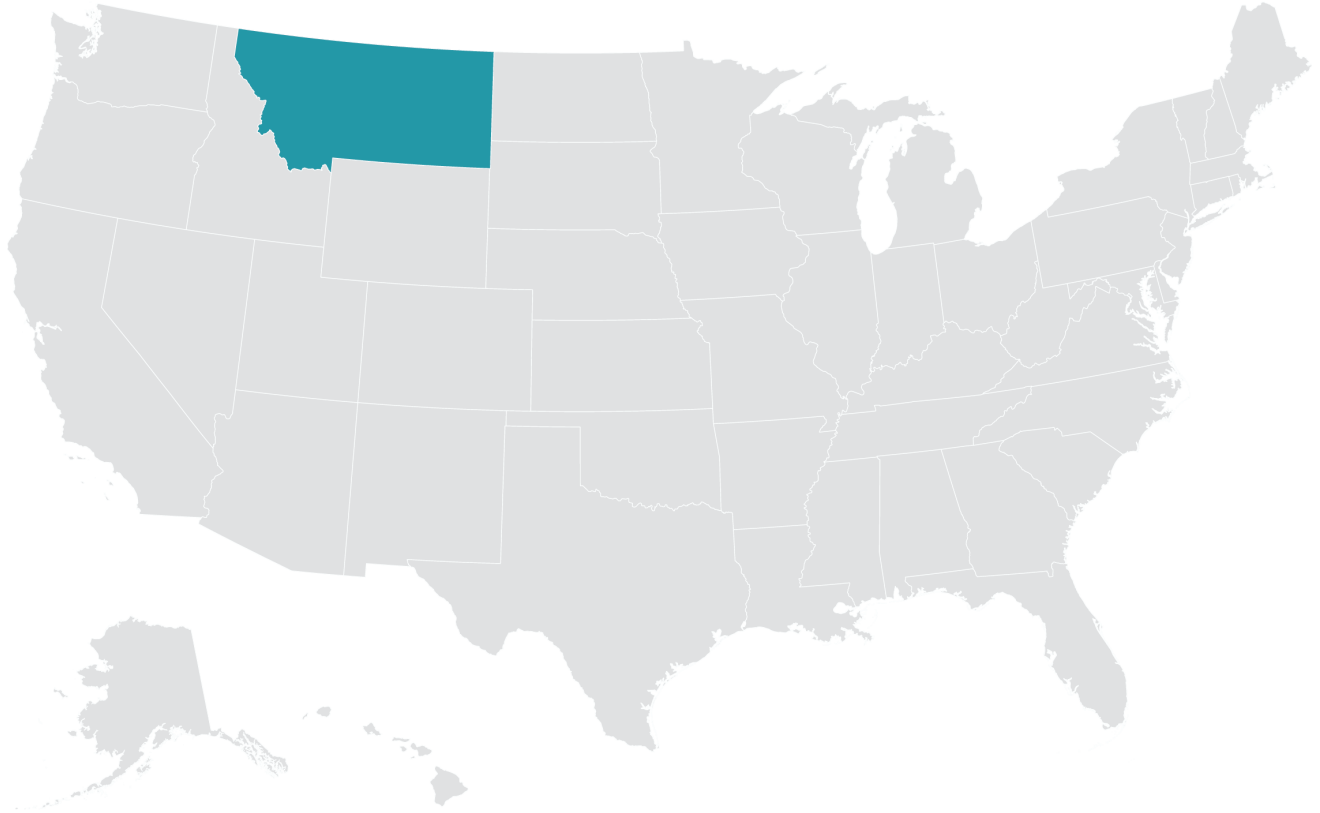
- Bill banning private funding introduced during 2023 session
- Ban enacted in 2023 by Republican trifecta
- Existing ban amended in 2023 by a Republican trifecta
- Existing ban or restriction, enacted by a Republican trifecta
- Existing ban, enacted by divided government



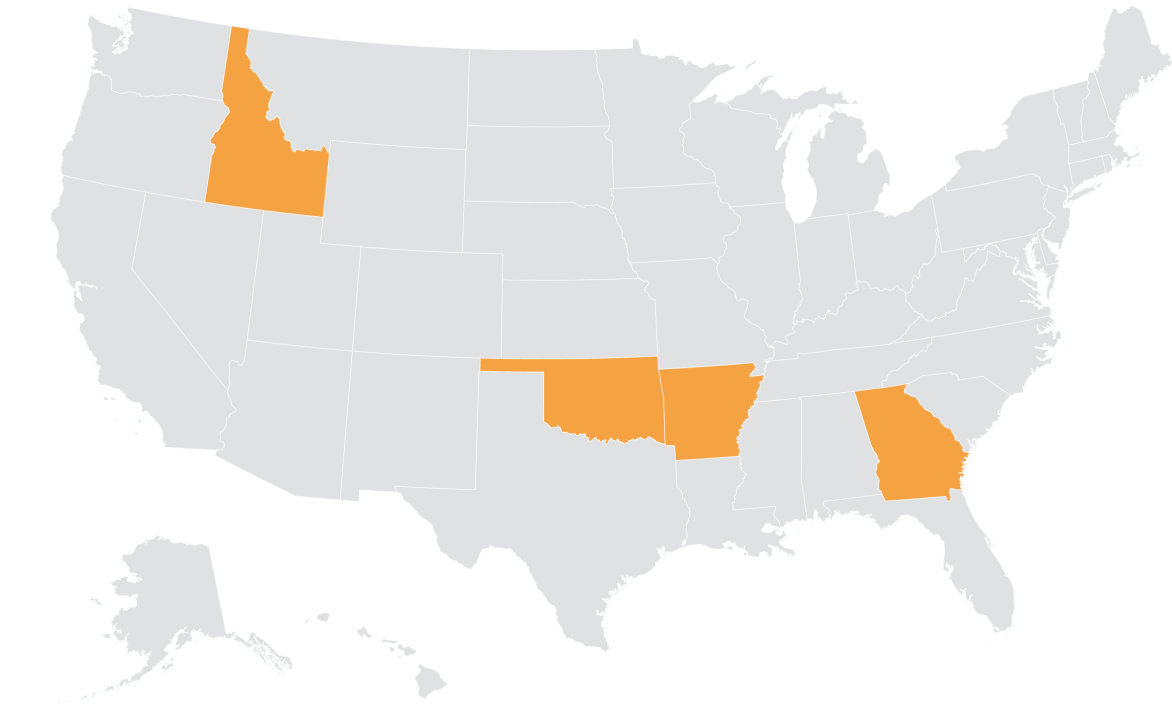
Democratic trifectas: CA, CO, CT, DE, HI, IL, ME, MD, MA, MI, MN, NJ, NM, NY, OR, RI, WA

Republican trifectas: AL, AR, FL, GA, ID, IN, IA, MS, MO, MT, NE, NH, ND, OH, OK, SC, SD, TN, TX, UT, WV, WY

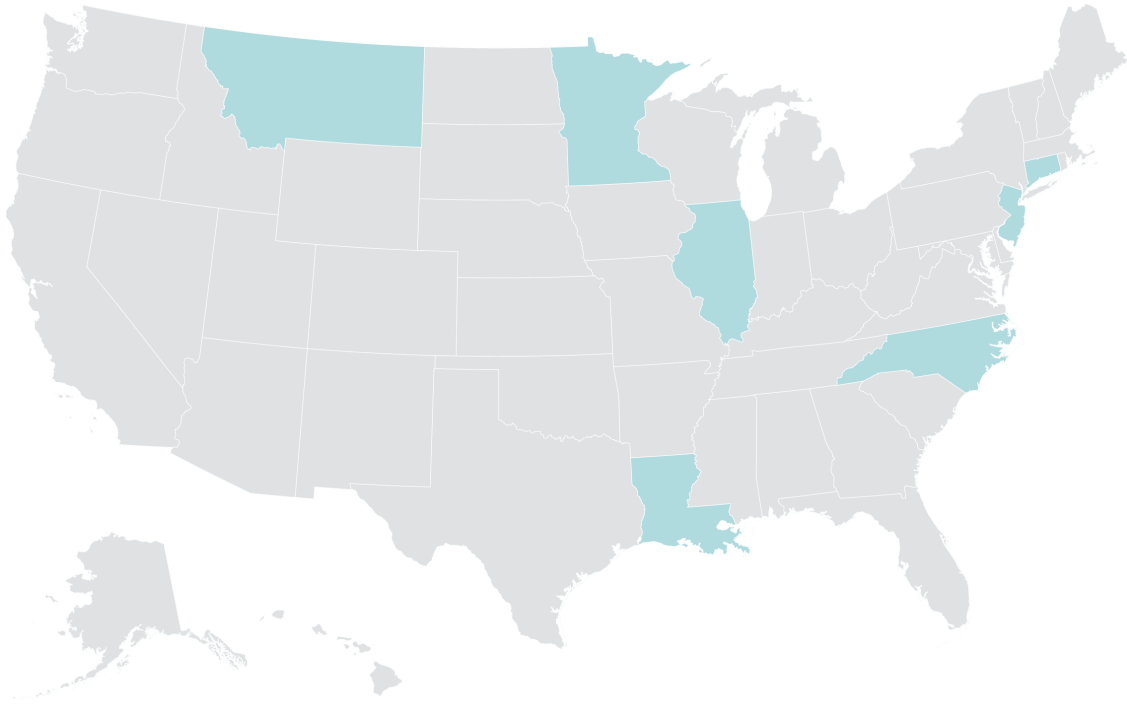
Ban on private election funding enacted in 2023



Ban on private election funding amended in 2023



Bill banning private election funding introduced in 2023



Election audits

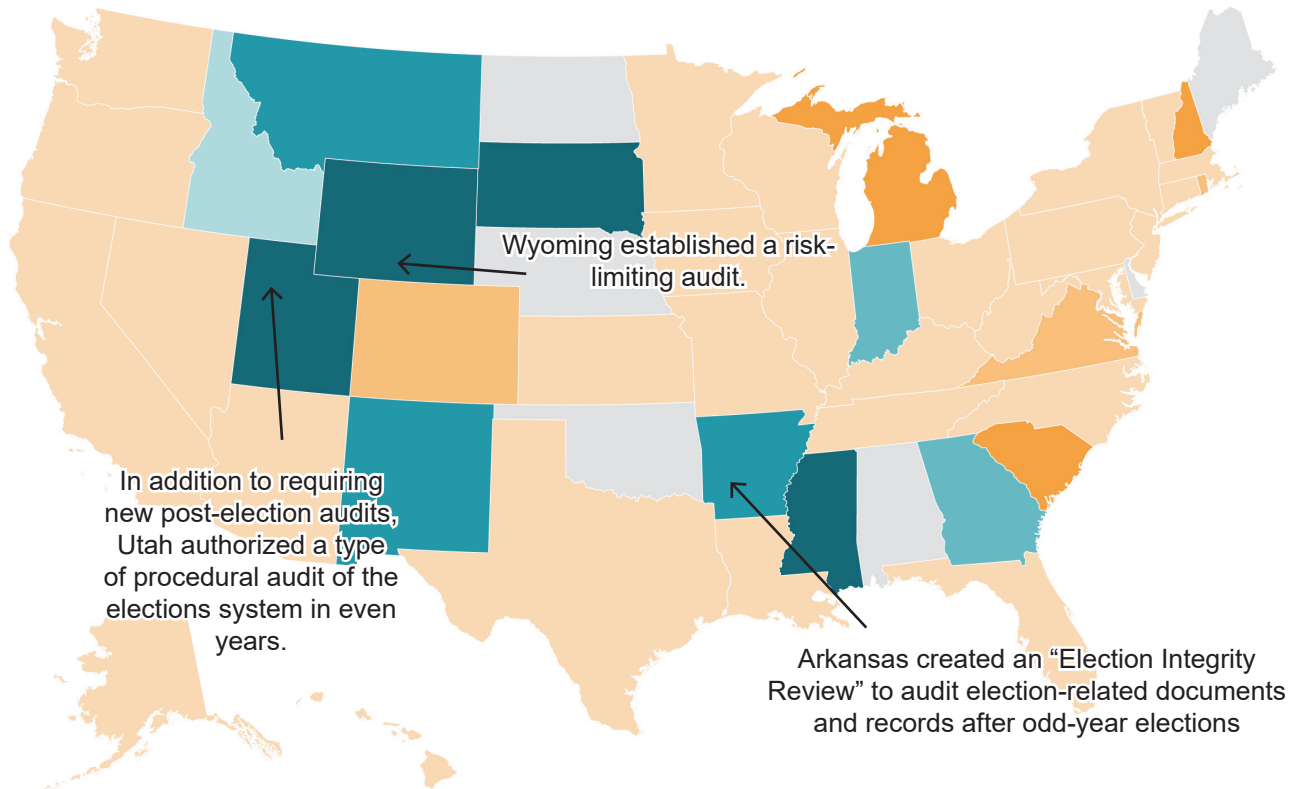
Post-election **audits** are classified into two categories: audits of election results—which include traditional post-election as well as risk-limiting audits—and procedural audits, which include a systematic review of voting equipment, performance of the voting system, duties of election officials and workers, ballot chain of custody, and more. The scope of procedural audits varies by state.

Post-election audits of election results check that election results a state's voting system tallies match results from paper records, such as voters' paper ballots or electronic voting machines' paper records. Typically, traditional post-election audits involve recounting ballots and comparing the results to those of the state's voting system. Risk-limiting audits are similar to traditional audits but employ statistical techniques to review a random sample of votes cast.

Heading into 2023, 35 states and the District of Columbia required traditional post-election audits, and three states required risk-limiting post-election audits. Three states required procedural post-election audits, but not a traditional or risk-limiting audit, while numerous states with traditional or risk-limiting audit requirements also had provisions related to procedural audits. Finally, eight states had a risk-limiting audit pilot program (see next page). As of May 31, 10 states had enacted laws related to election audits in 2023.

Status of laws governing post-election audits as of May 2023

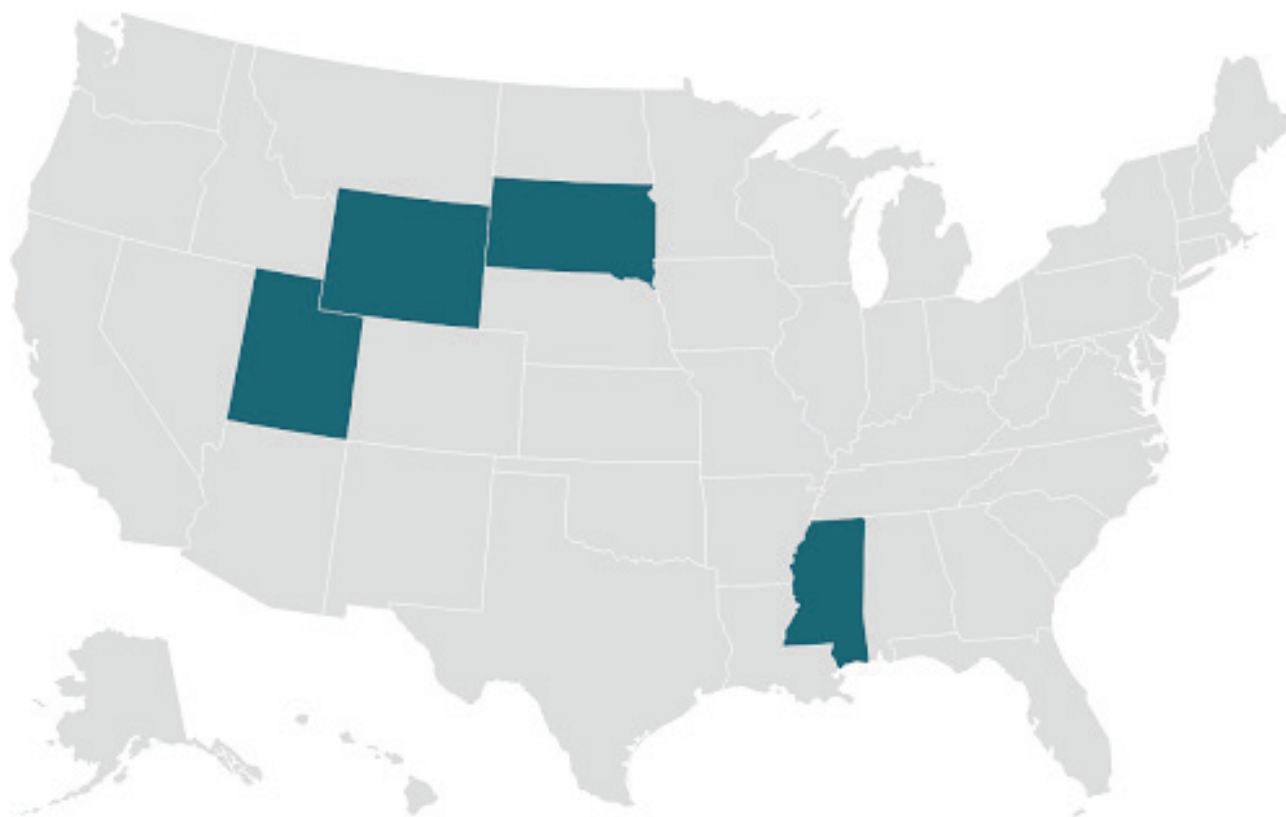
- Requires traditional post-election audits
- Requires risk-limiting post-election audits
- Requires procedural post-election audits only
- Amended law related to post-election audit in 2023 (traditional or risk-limiting)
- Amended existing risk-limiting audit pilot program in 2023
- Expanded existing traditional post-election audit requirements in 2023
- Established a new post-election audit requirement in 2023 (traditional or risk-limiting)



Democratic trifectas: CA, CO, CT, DE, HI, IL, ME, MD, MA, MI, MN, NJ, NM, NY, OR, RI, WA

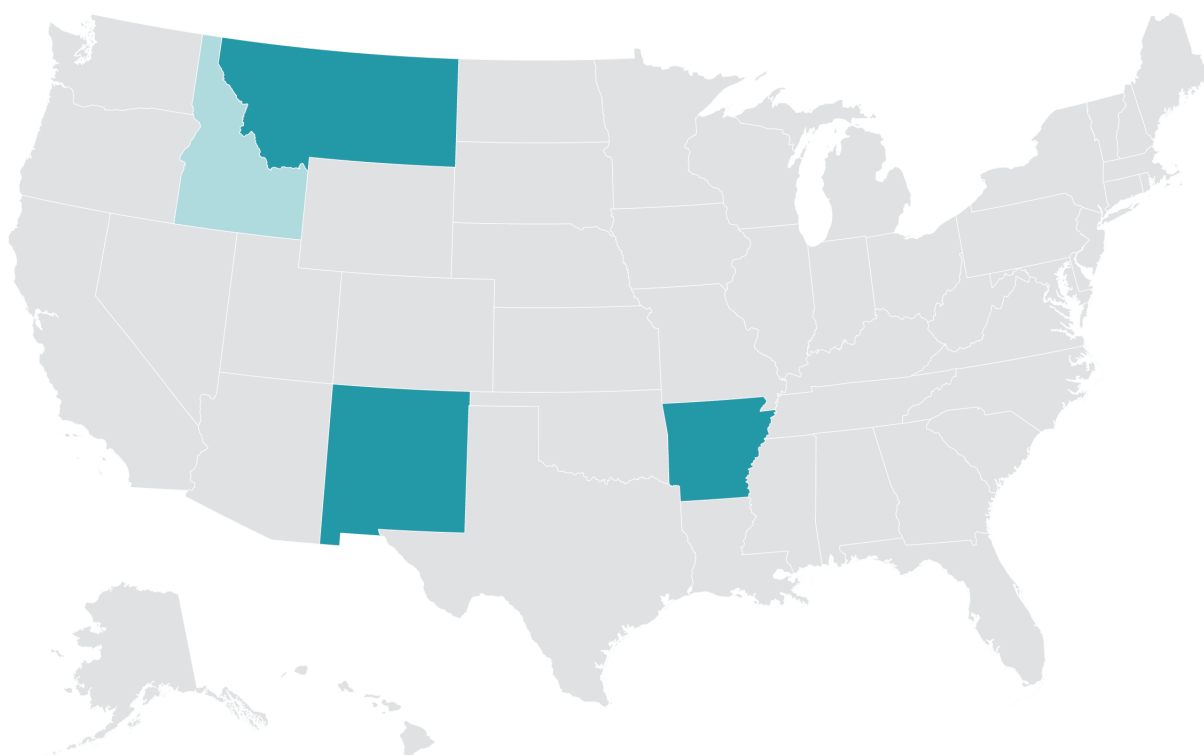
Republican trifectas: AL, AR, FL, GA, ID, IN, IA, MS, MO, MT, NE, NH, ND, OH, OK, SC, SD, TN, TX, UT, WV, WY

Law established post-election audits enacted in 2023



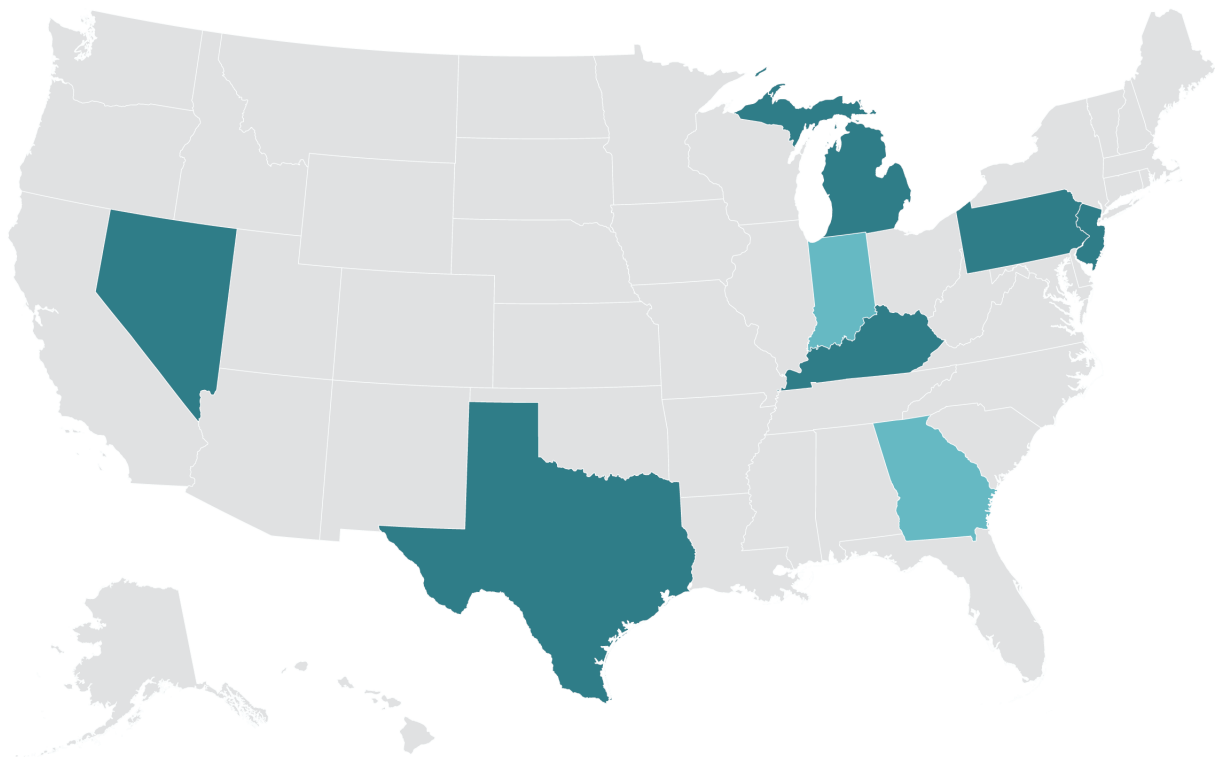
Law governing post-election audits amended or expanded in 2023

- Amended law related to post-election in 2023
- Expanded existing traditional post-election audit requirements in 2023



Status of risk-limiting audit pilot programs in 2023

- States with risk-limiting audit pilot programs as of 2023
- States that amended existing risk-limiting audit pilot program in 2023



Qualifications for election auditors

In addition to bills addressing requirements for post-election audits, we've also tracked five bills related to qualifications for election auditors this year:

- **New Hampshire SB157** defines who may conduct an audit as a team including an individual who has “...been trained by the secretary of state in the audit process and the use of audit equipment,” as well as an elected official. The bill also provides that the secretary of state may include technical experts in the audit team to assist with the technology being used.
- **New York A3512** would create new audit requirements and provides that the state board of elections may contract with an election auditing entity that “must meet standards to ensure its independence.”
- **Oregon HB3448** defines an entity qualified to conduct an audit as one with “significant experience conducting election audits... [and that is] based outside of Oregon and does not employ any individuals who reside in Oregon.”
- **North Carolina H372** would require the state to “implement best practices to ensure, at a minimum, each audit ... [i]s conducted by nonpartisan officials with expertise in elections.”
- **Utah HB0155** would have allowed the state to contract with a “qualified independent accounting firm” for the purposes of assisting in an audit of the election system and election results.

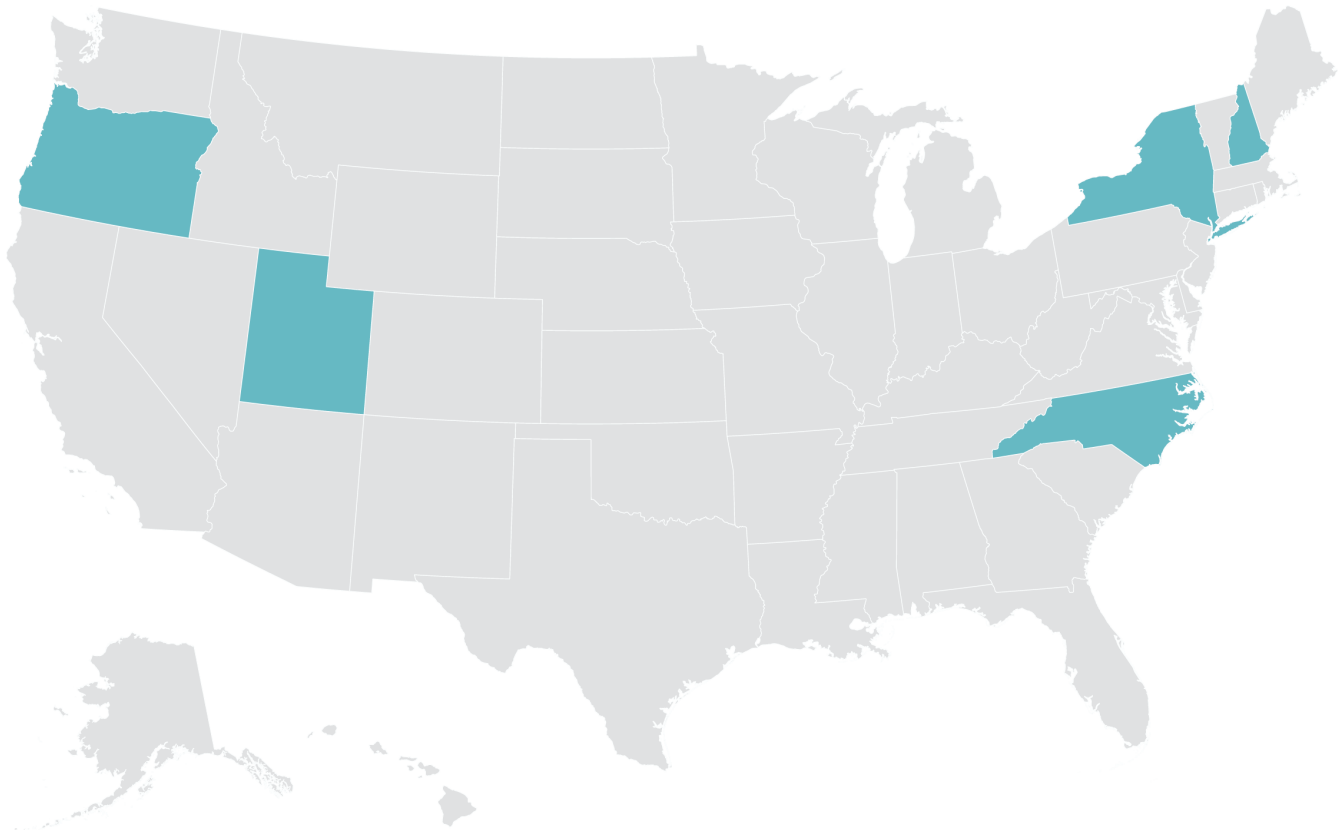


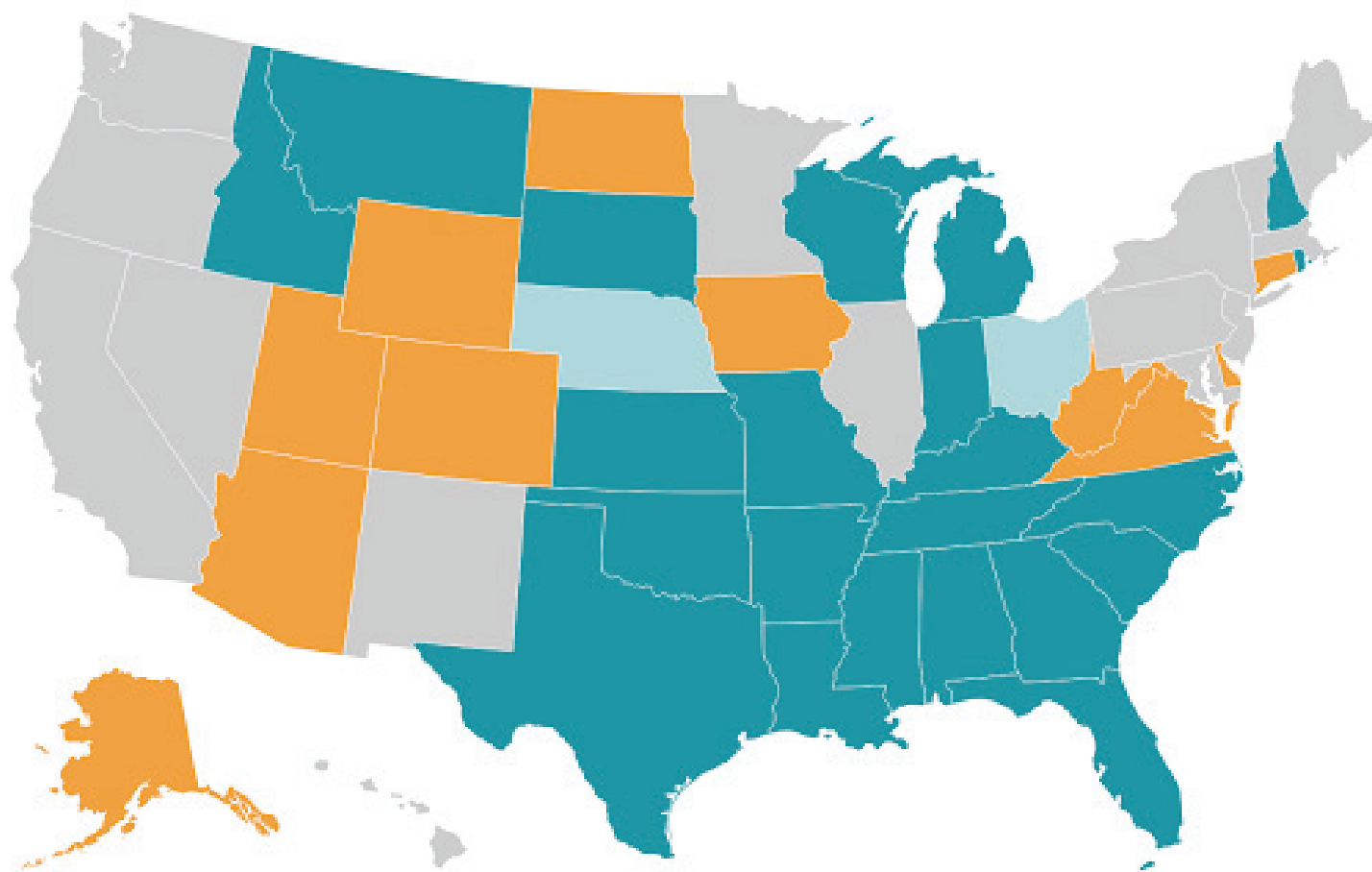
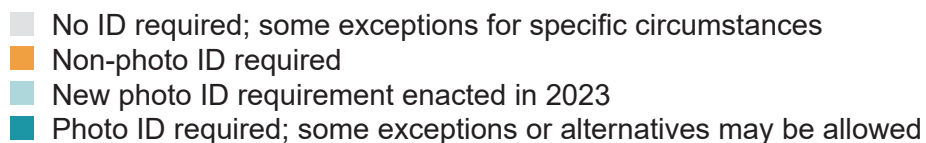
Photo ID requirements for in-person voting

Federal law requires voters to provide either a driver's license number or the last four digits of their social security number when registering to vote in a federal election, as well as requiring certain first-time voters who register to vote by mail to provide additional identification before voting. States with voter identification laws require voters to present some form of identification for in-person voting, as well. Some of those states require voters to present photo identification at the polls.

Heading into 2023, 22 states required voters to provide photo ID when voting in person.

Nebraska and Ohio have enacted new voter ID requirements in 2023.

Status of photo ID requirements for in-person voting as of May 2023

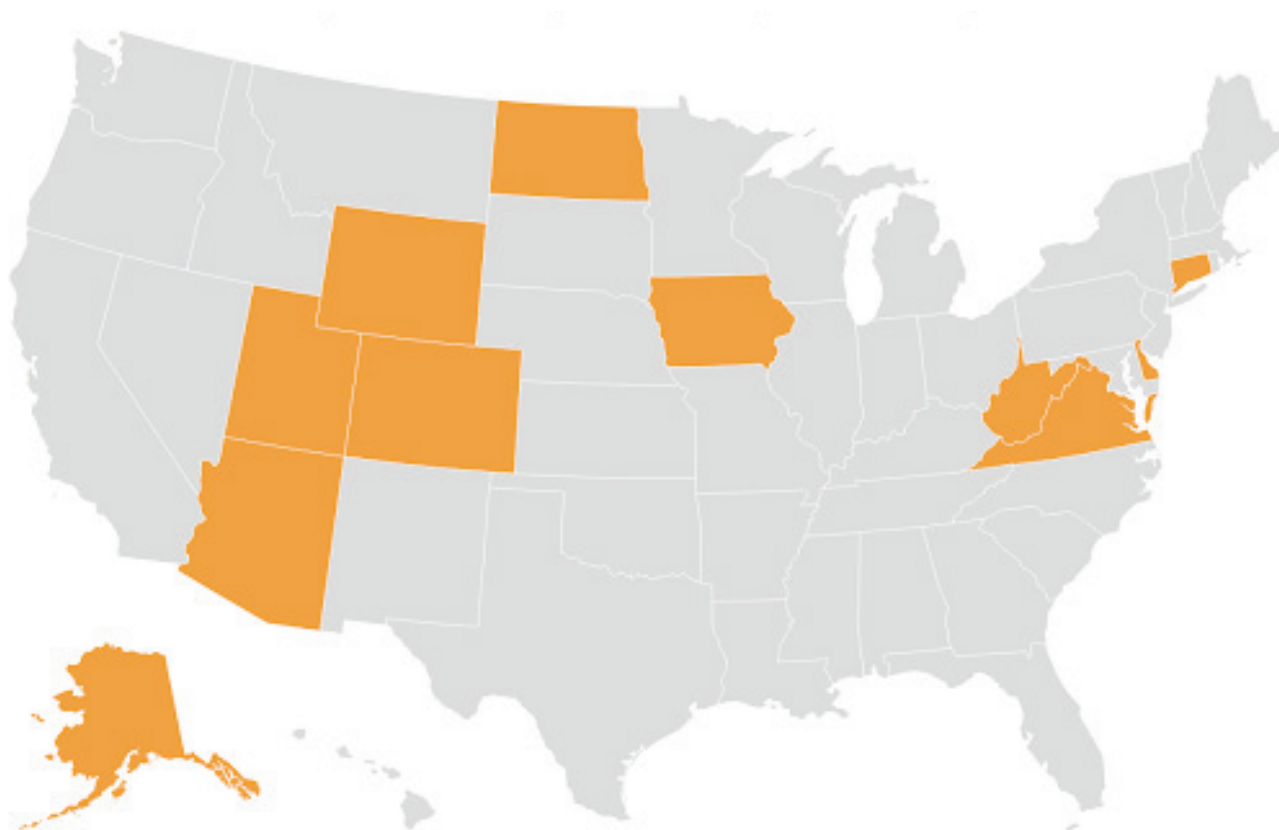


**Nebraska LB514 was enacted on June 1.*

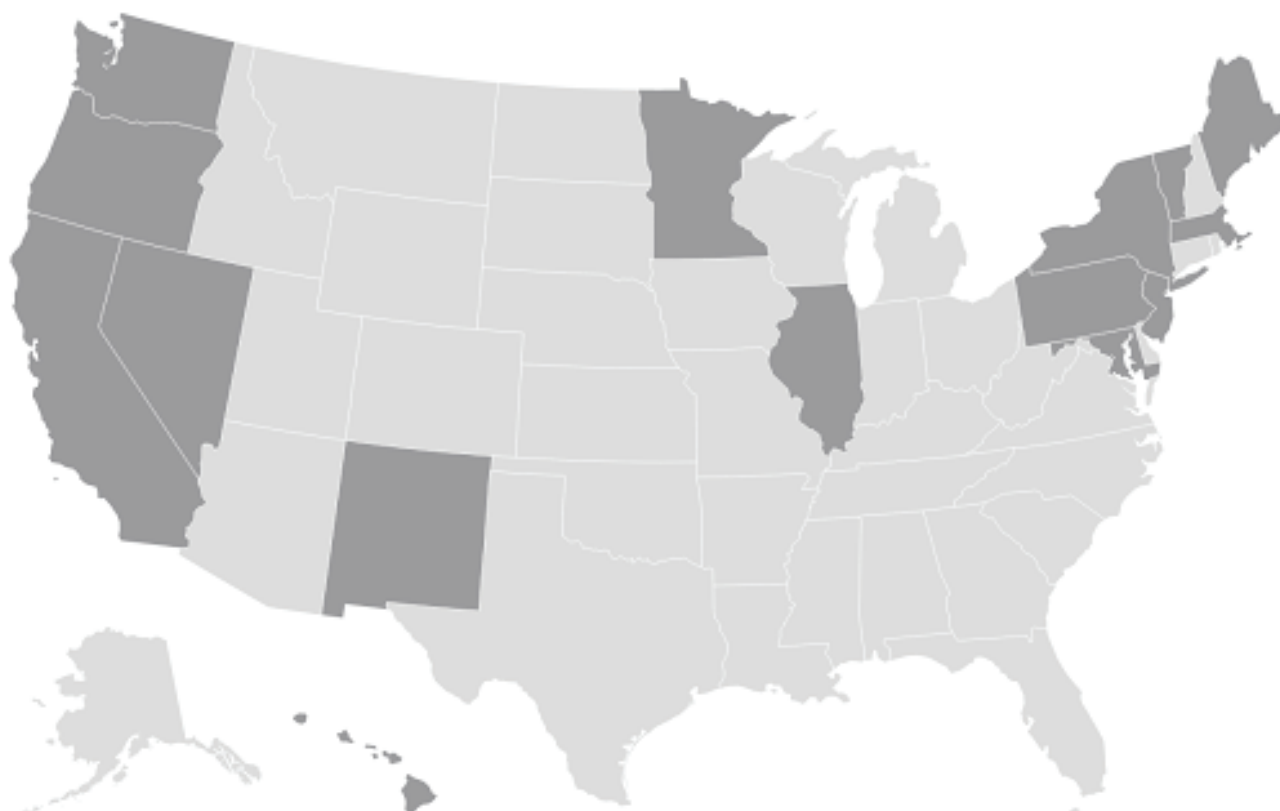
Democratic trifectas: CA, CO, CT, DE, HI, IL, ME, MD, MA, MI, MN, NJ, NM, NY, OR, RI, WA

Republican trifectas: AL, AR, FL, GA, ID, IN, IA, MS, MO, MT, NE, NH, ND, OH, OK, SC, SD, TN, TX, UT, WV, WY

States where non-photo ID is required for in-person voting

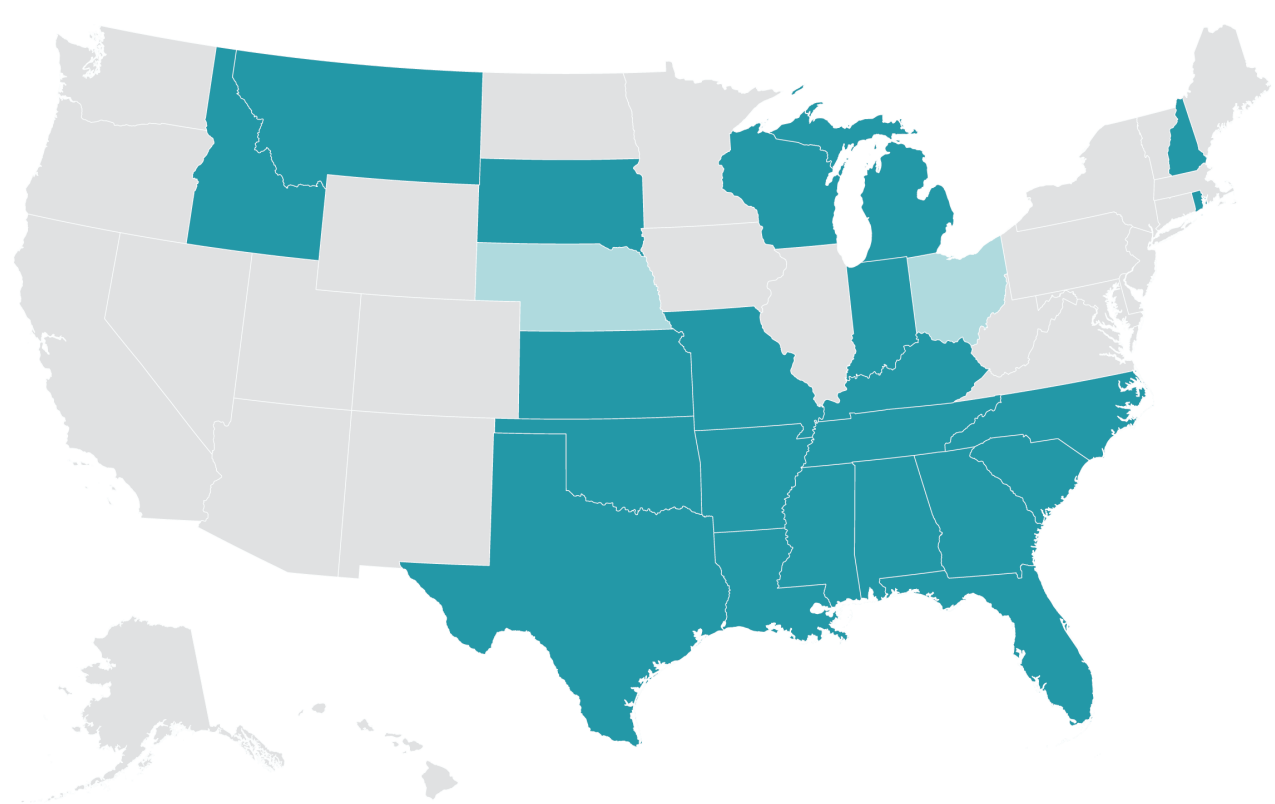


States where voter ID is not required for in-person voting



States where photo ID is required for in-person voting

- New photo ID requirement enacted in 2023
- Photo ID required; some exceptions or alternatives may be allowed

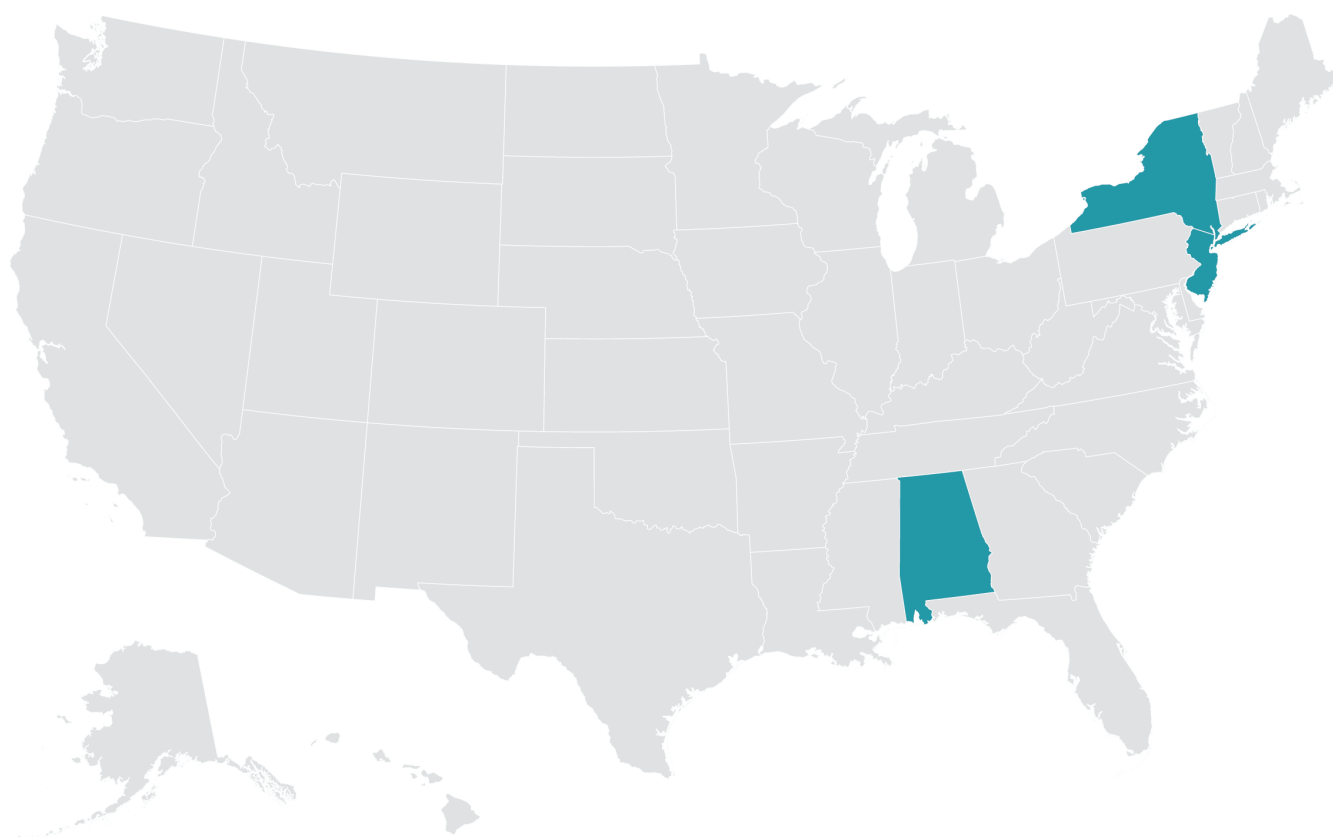


What about absentee/mail-in voting?

No states currently require voters to include a copy of their photo ID when returning an absentee/mail-in ballot.

As of May 31, Republican legislators in three states—Alabama, New Jersey, and New York—had introduced bills that would require voters to include a copy of their photo ID when returning an absentee/mail-in ballot. The bills introduced in Alabama and New Jersey included exemptions for certain voters, including uniformed and overseas voters, voters with disabilities, and elderly voters. The New Jersey bill also included an exception for voters with religious objections to being photographed.

Bills introduced in 2023 requiring a copy of photo ID when returning an absentee/mail-in ballot



Democratic trifectas: CA, CO, CT, DE, HI, IL, ME, MD, MA, MI, MN, NJ, NM, NY, OR, RI, WA

Republican trifectas: AL, AR, FL, GA, ID, IN, IA, MS, MO, MT, NE, NH, ND, OH, OK, SC, SD, TN, TX, UT, WV, WY

Noncitizen voting

In 1996, the U.S. Congress passed a law prohibiting noncitizens from voting in federal elections. This does not apply to state and local elections. As of 2023, seven states specify that noncitizens may not vote in state and local elections: Alabama, Arizona, Colorado, Florida, Louisiana, North Dakota, and Ohio. The District of Columbia and municipalities in California, Maryland, and Vermont allow noncitizens to vote in local elections.

As of May 31, six states had introduced constitutional amendments requiring all voters to be U.S. citizens, and six states had introduced bills requiring proof of citizenship to register to vote or prohibiting noncitizen voting. Four states had introduced bills prohibiting consideration of citizenship for voter registration or explicitly allowing noncitizens to register or to vote in certain elections.

Bill related to noncitizen voting introduced as of May 2023

- Bill introduced prohibiting consideration of citizenship for voter registration, or explicitly allowing noncitizens to register or to vote in certain elections.
- Proposed constitutional amendment providing that all voters must be U.S. citizens.
- Bill introduced requiring proof of citizenship to register to vote, or otherwise prohibiting or codifying a prohibition on noncitizen voting.
- Bill introduced related to citizenship and voting that would not prohibit or allow noncitizen voting.

